

September 8, 2025

VIA CERTIFIED MAIL

David Gibbs
Chairman, Hall County Commission
Kathy Cooper, Billy Powell, Gregg Poole, and Jeff Stowe
Commissioners, Hall County
P.O. Box 1435
Gainesville, GA 30503

RE: Application of BCBTR, LLC to Rezone 130.84± acre tract comprising tax parcels 15007 000254 (partial), 15019 00014, & 15019 000043 from Agricultural Residential 1 (AR-1) to Residential Mixed (R-X) located at 4745 Cagle Mill Road, 4673 and 4691 Noah Martin Drive (hereafter, “the Property”)

Dear Chairman and Commissioners,

This letter represents the concerns of numerous citizens and legal residents of eastern Hall County whose health, safety, morality, and welfare would be adversely affected by an approval of the pendent application (hereafter, “the Application”) for rezoning of the aforementioned Property.¹ There are three sections herein, labeled I, II, and III and found on pages 1, 2, and 9, respectively.

I.

There is legal issue to be had with the email, dated September 4, 2025, from Mr. T. Wesley Robinson of Hulsey, Oliver & Mahar, LLP to Ms. Beth Garmon and carbon copied (“Cc”) to Stephen Lovett of The Norton Agency and Josh Boling of Audubon. Importantly, Mr. Robinson sent this email 15 days after his August 20, 2025 letter to the Hall County Board of Commissioners (hereafter, “the Board”). This email must be considered in the light of his August 20th letter (see section II below). In the email, Mr. Robinson requests that “both of the zoning application regarding 4747 [sic] Cagle Mill Road be tabled at the 9/11 meeting until either 10/7 or 10/23” so that he and his clients can “get some information from our engineer regarding the impact of the 50 transitional buffer imposed by the planning costs, as well as costs related to the paving of Cagle Mill Rd.”

At this point, any additional information Mr. Robinson and the Applicants wish to obtain from their “engineer” is immaterial to the Application as submitted to the Planning Commission and, now, on the agenda for consideration and vote by the Board. If the Applicants wish to revise the Application with such information, they need to withdrawal the Application and follow proper procedure for re-submission to the Planning Commission, including a public hearing. Were it intended, by-stepping this procedure would be inappropriate.

¹ At the August 4, 2025 meeting of the Hall County Planning Commission, east Hall County resident Jodi White submitted 71 hand-signed, paper petitions to the Commission for the record by citizens and residents of Hall County that oppose the Application (record number: HZON25-0019). She likewise alluded, on record, to over 400 online petitions in opposition to the approval of HZON25-0019.

At this point, therefore, It is neither the Board's legal nor ethical responsibility to afford Audubon or Hulsey, Oliver & Mahar, LLP and their agents time to build a case in order to pursue litigation should the Board deny the Application.² If the Applicants' intent is, rather, to request time so as to gather information to strengthen potentially necessary rebuttals during the Board's public hearing of the Application, it would not be within the Board's legal or ethical responsibility to provide such gratuitous time to the Applicants or their hired agents and attorneys.

The Property owner presumably pays Mr. Boling via Audubon and Mr. Robinson via Hulsey, Oliver & Mahar, LLP to collect such information as outlined by Mr. Robinson, and any other information the Applicants desire, on Mr. Boling's and Mr. Robinson's own time, *not that of the Board nor; therefore, the taxes and time of Hall County citizens and legal residents*.³ Again, it would be a probable breach of the Board's legal and ethical purview to grant the Applicants' request to table the Application based on the reasoning supplied by Mr. Robinson in the aforementioned email. Formal ethical complaints filed by Hall County citizens and legal residents could follow were such a legally dubious motion proposed and approved by the Board at the corresponding meeting (currently scheduled for September 11, 2025).

II.

There is legal issue to be had with the letter dated August 20, 2025 from Mr. T. Wesley Robinson of Hulsey, Oliver & Mahar, LLP to the Chair and other members of the Board in which Mr. Wesley satisfies the procedural requirement to pursue legal action against Hall County should the Board not approve his clients' application for rezoning of the Property. His clients are BCBTR, LLC and CBD Investments, LLC (hereafter, "the Applicants").

In said letter, Mr. Robinson states that "Georgia Law requires that the following Constitutional objections be submitted in order to preserve the right of the applicant during the rezoning process." As you may be aware, this is a procedural necessity stemming from Georgia case law to keep constitutional claims alive for judicial review should the rezoning application for the Property not be approved by the Board.⁴ In other words, were the Board to deny BCBTR, LLC's and CBD Investments, LLC's (henceforth, "the Applicants") application for rezoning, the Applicants are establishing a route for possible litigation against Hall County. Robinson's letter is a typical "constitutional objections" letter used to contest zoning rulings at the local level.

As of the certified receipt and review of Mr. Robinson's letter by the addressees, the Applicants' federal and state constitutional objections have been received and considered in compliance with due process. Any decision by the Board concerning the Application on September 11, 2025 or thereafter will have been made subsequent to the required public hearings, staff review, and compliance with notice requirements. The Board and Hall County

² Cf. Official Code of Hall County, Georgia, 2.110 Code of Ethics (2022).

³ "Property FAQ: Where Do Property Tax Dollars Go?," Hall County Tax Commissioner, 2025, <https://hallcountytax.org/property/property-faq/>.

⁴ Cf. Hall County Board of Commissioners of Roads and Revenue v. Agri-Bio Corporation, 249 Ga. 112 (1982); 288 S.E.2d 206 (Supreme Court of Georgia 1982); Holy Cross Lutheran Church, Inc. v. Clayton County, 257 Ga. 21; 354 S.E.2d 151 (Supreme Court of Georgia 1987).

staff, in other words, have performed their legal due diligence concerning both the Application and the Applicants' allegations, as presented by Mr. Robinson.⁵

The Hall County zoning ordinances (hereafter, "the Ordinances") presently in effect and, thereby, applied to the Application neither render the Property "unusable" nor "destroy its marketability." The Ordinances, therefore, do not constitute a taking of the Property "without just and adequate compensation and without due process of law." Likewise, the Ordinances do not violate the Fifth Amendment of the U.S. Constitution (as made applicable of the States by the Fourteenth Amendment) nor Article 1, Section 1, Paragraph I; Art. 1, § 3, ¶ I; and Art. 1, § 3, ¶ IA of the Constitution of the State of Georgia. Furthermore, the Ordinances as applied to the Property do not deny the Applicants equal protection under the law as provided in the Fourteenth Amendment of the U.S. Constitution and Art. 1, § 1, ¶ I; Art. 1, § 3, ¶ IA; and Art. 1, § 1, ¶ II.

Mr. Robinson cites the aforementioned federal and state laws to ground the following allegations resulting, he states, from the Ordinances as applied to the Property:

1. The impracticality to develop the Property and, thus, the significantly diminished marketability and value of the Property
2. The arbitrary and capricious nature of the Ordinances as applied to the Property
3. The significant detriment inflicted upon the Property by the application to it of the Ordinances
4. The insubstantiality of the relation of the aforementioned detriment to the health, safety, morality, and welfare of the public
5. The restriction on the unfettered use of the Property by its owner, which in turn inflicts serious and significant injury and damage to the Applicants (which includes the Property owner, CBD Investments, LLC)
6. The relatively little public gain or benefit to the public resultant from the alleged "serious and significant injury and damage to the Applicant and the Property owner"

I will address each of these six points in turn.

(1) The Property of the Application is currently zoned AR-1.⁶ In the case of judicial review, the Applicants and their agents would need to provide clear and convincing evidence for their claim of impracticality and, thus, significantly diminished marketability and/or value. "Unusable" and "destroy" are strong terms and likely indicate strategic hyperbole on the part of the Applicants. Clear and convincing evidence is more demanding than a mere preponderance of evidence. Clear and convincing evidence is, therefore, a cornerstone of Georgia zoning law.

⁵ Cf. *Holy Cross Lutheran Church, Inc. v. Clayton County*, in which the Georgia Supreme Court ruled that constitutional objections must be raised during the rezoning process to be preserved for subsequent judicial review; Cf. *Hall County v. Cook Communities*, 366 Ga. App. 459 (2023) (Court of Appeals of Georgia 2023), in which the Court of Appeals held that Hall County's rezoning action (imposing conditions that "essentially amounted to a denial") was a legislative decision for which the proper vehicle was a *de novo* review rather than *certiorari* only; Cf. *Hall County Board of Commissioners of Roads and Revenue v. Agri-Bio Corporation*, in which the applicant failed to properly raise constitutional objections before the Board.

⁶ *Hall County Planning Commission Staff Report*, no. HZON25-0019 (Hall County Planning and Zoning Division, 2025).

Georgia courts presume that the Ordinances and related decisions to keep existing zoning in effect are valid.⁷

Under the Property's current zoning, there are a plethora of allowances for alternative yet highly viable economic activities that could be pursued with different yet arguably equal practicality as the use proposed by the Applicants in the "Hall County Planning Commission Staff Report."⁸ Such activities could include, for example:⁹

- Crop and/or animal agriculture
- Equestrian center
- Timber production and timber harvesting
- On-site composting of organic materials for sale
- Storage and sale of soil, mulch, gravel, and/or lumber
- The construction and sale of single-family detached dwellings
- The installation and leasing of manufactured and/or mobile homes
- The contracted installation of small wireless facilities or antennas
- Telecommunications antennas or towers
- Bed and breakfast operation
- Travel park, camp ground, or RV park operation
- Professional animal care such as veterinary or kennel operation
- The establishment of commercial endeavors such as a stand-alone bakery or craft manufacturing facility
- Agri-entertainment events
- Event facilities and services
- Agri-tourism
- Indoor shooting range
- Eating and drinking establishment
- Non-profit private clubhouse
- Private school
- Farm winery
- Sawmill
- Market garden
- Farmer's market
- Temporary events, of 90 days or less or of 90 days or more
- Residential subdivision
- Minor subdivision

There are conditional use permits and/or special use approvals that would be involved in several of the above undertakings under the current AR-1 zoning. Nonetheless, it remains to be demonstrated by the Applicants, with clear and convincing evidence, that any or all of the above

⁷ Cf. *Gradous v. Board of Commissioners of Richmond County*, 256 Ga. 469 (1986); 349 S.E.2d 707 (1986) (Supreme Court of Georgia 1986); *Clarke et al. v. Cotton*, 263 Ga. 861; 440 S.E.2d 165 (Supreme Court of Georgia 1994).

⁸ *Hall County Planning Commission Staff Report*.

⁹ *Hall County Planning Commission Staff Report*.

economic possibilities would be more or less practical than their current intended use. Likewise, it remains to be demonstrated by the Applicants that a denial of the Application would result in the destruction of the Property's marketability and value in light of such an abundance of economic opportunities allowed by the current AR-1 zoning.

While approval of the Application would likely increase the Property's market value and, thus, the Applicants' profitability, Georgia law is clear that greater profitability under a requested zoning classification does not create a constitutional right to rezoning.¹⁰ Under the Property's current AR-1 zoning, the Applicants may experience some economic disadvantage. This, however, is not enough to merit Mr. Robinson's claims of "unusable," "destroy[ing] [the Property's] marketability," "significantly diminish[ed] [...] value," or "significant detriment." It is, rather, readily apparent that, on the contrary, many reasonable uses remain of all types, including types that could result in significant profitability.¹¹

The Applicants' claims of "unusable," "destroy[ing] [the Property's] marketability," "significantly diminish[ed] [...] value," and "significant detriment," therefore, do seem to be fairly debatable. Georgia courts have not overturned a zoning decision by a county when the validity of the zoning classification is found to be "fairly debatable." This "fairly debatable" rule indicates that, in a case of a contested but "fairly debatable" county zoning decision, courts will defer to the legislative action of the county, leaving the county's legislative action to prevail.¹² This precedent includes, for example, a notable case in which DeKalb County denied a request for denser zoning (mirroring the situation with the Application presently at issue).¹³

Lastly, it deserves to be emphasized that, on the Applicants' current lines of argument (see preceding paragraph), it will be difficult for Mr. Robinson to sustain that there has been any effective taking of the Property by Hall County as taking is defined in the U.S. and Georgia constitutions.

(2) Mr. Robinson claims that his clients find the nature of the application of the Ordinances to the Property "arbitrary and capricious." "Arbitrary and capricious" is a longstanding phrase in American law at the federal and state levels.¹⁴ In practical terms, Mr. Robinson's intended meaning is "not based in relevant facts," or "lacking in reasonable justification," or "guided by whim or personal preference rather than law and evidence." In Mr. Robinson's letter, he communicates that the Applicants allege that Hall County – as served by the staff of the Planning and Zoning Division, by the Planning Commission, and by the Board of Commissioners – has proceeded to apply the Ordinances in a manner not based on fact, or

¹⁰ Cf. *DeKalb County v. Dobson et Al.*, 267 Ga. 624 (1997); 482 S.E.2d 239 (1997) (Supreme Court of Georgia 1997); *Turner v. City of Atlanta*, 257 Ga. 306 (1987); 357 S.E.2d 802 (1987) (Supreme Court of Georgia 1987); *Brown v. Dougherty County*, 254 Ga. 659 (1983) (Supreme Court of Georgia 1983).

¹¹ Cf. *Gradous v. Board of Commissioners of Richmond County*.

¹² *Gradous v. Board of Commissioners of Richmond County*.

¹³ *DeKalb County v. Graham et Al.*, 251 Ga. 423 (1983); 306 S.E.2d 270 (1983) Supreme Court of Georgia 1983).

¹⁴ Cf. *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926); 47 S. Ct. 114 and 71 L. Ed. 303 (Supreme Court of the United States 1926); Administrative Procedure Act (APA), Pub. L. Nos. 79–404, 5 U.S.C. §§ 551–559 (1946); *Barrett et al. v. Hamby*, 235 Ga. 262 (1975); 219 S.E.2d 399 (1975) (Supreme Court of Georgia 1975); *DeKalb County v. Chamblee Dunwoody Hotel Partnership*, 248 Ga. 186 (1981); 281 S.E.2d 525 (1981) (Supreme Court of Georgia 1981).

lacking reasonable justification, or guided by whim or personal preferences rather than law and evidence, or some combination thereof.

(3) The Applicants' claim that the current application of the Ordinances to the Property is "arbitrary and capricious" is based on the further claim that this application of the Ordinances inflicts a significant detriment to the Property. To prove that the application of the Ordinances to the Property is "arbitrary and capricious," therefore, they need to first demonstrate, with clear and convincing evidence, that the applicants have *already* sustained or *are sustaining* (and not *will* sustain, in the future and, therefore, evidentially impossible to substantiate) significant detriment as a result of impracticality of developing the Property, or its decreased market value, or its decreased marketability, or some combination thereof. Mere economic disadvantage, or even economic loss, however, does not comprise a federal or state constitutional deprivation.¹⁵ Therefore, such a demonstration would encompass the considerations outlined in the discussion at (1) above.

This is not all, however. The Applicants must prove, with clear and convincing evidence, that their alleged significant detriment is insubstantially related to the health, safety, morality, and welfare of the public.

(4) Any argument for the insubstantiality of relations of the application of the Ordinances by the Board to the health, safety, morality, and welfare of the public must not be merely "fairly debatable." In other words, it is the burden of the Applicants to prove with clear and convincing evidence that the insubstantiality of some one or more relations of their avowed significant detriment to the health, safety, morality, and welfare of the public is *not* "fairly debatable" by any countering line of evidentially substantiated argument.¹⁶

The morality and the general welfare of the public must stand alongside health and safety as valid grounds for zoning decisions. Georgia law has set a clear and tested precedent for both the breadth and restrictions of the policing power of Georgia counties as to their respective zoning classifications and their respective applications of these classifications.¹⁷ These policing powers have been further defined into a six-factor balancing test for the substantiality or insubstantiality of relations to the health, safety, morality, and welfare of the public.¹⁸ The morality and general welfare of the public includes, for example, the preservation of neighborhood character and quality, environmental quality including the conservation of green space provided by trees, and orderly growth.¹⁹

¹⁵ Cf. *Holy Cross Lutheran Church, Inc. v. Clayton County*; *Flournoy et al. v. City of Brunswick*, 248 Ga. 573 (1981); 285 S.E.2d 16 (1981) (Supreme Court of Georgia 1981).

¹⁶ Cf. *Gradous v. Board of Commissioners of Richmond County*; *DeKalb County v. Graham et al.*

¹⁷ *Barrett et al. v. Hamby*.

¹⁸ *Guhl et al. v. Holcomb Bridge Road Corporation et al.*, 238 Ga. 322 (1977); 232 S.E.2d 830 (1977) (Supreme Court of Georgia 1977). See also: *Cross et al. v. Hall County et al.*, 238 Ga. 709 (1977); 235 S.E.2d 379 (1977) (Supreme Court of Georgia 1977); *Board of Commissioners of Hall County v. Skelton*, 248 Ga. 855 (1982); 286 S.E.2d 729 (1982) (Supreme Court of Georgia 1982).

¹⁹ Regarding the relevance of tree preservation to the moral and welfare of the public, see *Greater Atlanta Homebuilders Association, et al. v. DeKalb County, et al.*, 277 Ga. 295 (2003); 588 S.E.2d 694 (2003) (Supreme Court of Georgia 2003): "many benefits [...] can be directly attributable to trees;" and tree preservation "is necessary for the preservation of the public health, safety, general welfare, environment and aesthetics."

The Application is incompatible with the existing land use of the surrounding area and the the character of the surrounding community.²⁰ This community lives in and maintains low-density, agricultural-residential lifestyles in accordance with and as permitted by AR-1. In many cases, community members additionally engage in regular recreational and ongoing economic activities in accordance with and permitted by AR-1. These claims could require further substantiation, though this substantiation is certainly feasible were the Applicants to pursue litigation. Preserving the established character of this area and the community that lives in, maintains, and benefits from – in ways tangible as well as numerically intangible – serves the general welfare of all of its citizens and legal residents. The reliable stability of the neighborhood, likewise, could be discovered and documented to serve the general welfare of this concerned public.

Specific concerns as to the threats presented by the Application to the public’s morality and welfare are also substantial, including concerns regarding neighborhood safety in the presence of increased automotive and pedestrian traffic by unknown individuals from outside of the community; the compatibility of the Application with the current land uses; preserving and protecting the environmental and cultural character of the community as well as the recreational and economic activities dependent upon this character; and the current quality of life.²¹ The public’s opposition is specific and fact-based rather than merely documenting generalized dislike. The public evidenced this substantially on record during the Hall County Planning Commission meeting of August 4, 2025.

At this meeting, the maximum number of individuals from the public permitted by the Planning Commission’s procedural rules to speak against the Application, did so. This number was seven (7).²² Each of these seven testimonies, as well as the 71 petitions submitted to the Planning Commission by Jodi White, provide specific evidence as to the substantiality of the threats to the public’s morals and welfare by the Application as well as the substantiality of the potential adverse effects on the public’s morality and welfare in the were the Application to be approved by the Board.²³ The petitions, in particular, specify three concerns, as follows: Negative impact on wildlife and the natural environment, deterioration of quality of life for existing residents, and inadequate infrastructure and road capacity. The specific rationale for each of these three concerns is likewise articulated. Lastly, note that the maximum number of procedurally permitted speakers in opposition at a Planning Commission public hearing was reached when the Application was heard – this after approximately a year during which the Application was published on the Planning Commission’s agenda only to be, subsequently and repeatedly with insufficient time for the Planning and Zoning staff to alert the public, removed per the Applicants’ request. This fact further substantiates recognition of the threats posed by the Application to this public’s morals and welfare as well as this public’s rational and specific actions to document these concerns for the record in a procedurally appropriate manner.

²⁰ *Barrett et al. v. Hamby; Guhl et al. v. Holcomb Bridge Road Corporation et al.; Greater Atlanta Homebuilders Association, et al. v. DeKalb County, et al.*

²¹ *Barrett et al. v. Hamby; Guhl et al. v. Holcomb Bridge Road Corporation et al.; Cross et al. v. Hall County et al.; Gradous v. Board of Commissioners of Richmond County.*

²² *Hall County Planning Commission Meeting August 4, 2024: Hearing before the Hall County Planning Commission* (2025), <https://vimeo.com/1104302134>.

²³ *Hall County Planning Commission Meeting August 4, 2024.*

Finally, the Application is not in alignment with Hall County’s 2045 *Comprehensive Plan* nor, therefore, Section 9.2.7 of the 2024 Hall County Unified Development Code. Per the *Comprehensive Plan*, zone “R-X with the condition “(limited)” is appropriate only to the current and future lands use categories of “Lakeside Residential,” “Suburban Neighborhood, Low Density,” “Business Nodes & Corridors,” “Employment Nodes and Corridors,” and “Regional Activity Nodes and Corridors.”²⁴ “Limited” is vaguely and, thus, problematically defined as “Limited to certain character areas.”²⁵ Nevertheless, according to the *Comprehensive Plan* and, thus, the Unified Development Code, properties within the aforementioned land use categories *cannot* be rezoned as *merely* R-X. Such properties must conform to the “Limited” provision of the *Plan*.

The definition of “Limited” must therefore be made explicit and legally codified. Otherwise, the discrepancy and resultant lacuna in (i) the Land Use Categories as set out in Hall County’s recently enacted 2045 *Comprehensive Plan* and (ii) the new Residential Mixed (R-X) zoning category with the “Limited” condition as set forth in the *Comprehensive Plan* and the 2024 Hall County Unified Development Code threaten to become what, in quotidian language, is called a legal “loophole.” If this claim is correct, approval of the Application by the Board would set a local legal precedent of which no Hall County Board commissioner, planning commissioner, or Hall County staff member would wish to be the namesake. This potential legal loophole’s exploitation of the problematically equivocal “Limited” provision would be at the sole whim of County planning and zoning staff, Planning commissioners, and the Board. As such, it would indeed qualify as “arbitrary and capricious.”

Nonetheless, left as is, the Application cannot align with the *Comprehensive Plan*. According to the *Comprehensive Plan*, the future land use categories encompassing the Property are double: “Employment Nodes and Corridors” and “Suburban Neighborhood, Low Density.”²⁶ The Application can neither conform with the character of current zoning (AR-1) nor can it conform with the *Comprehensive Plan*. The land use category “Employment Nodes and Corridors” is defined to include “higher density residential uses, where appropriate” with a residential development density of “up to 16 dwellings per acre.”²⁷ Suburban Neighborhood, Low Density land use should “consist of low-density, detached single family housing” which, “[d]epending on the character area and what zoning districts they allow,” residential density “can be up to 2 dwellings per acre or up to 8 dwellings per acre.”²⁸ “Detached single-family housing” is in conflict with the Applicants’ proposed 106 town homes.²⁹ Furthermore, the difference between “16 dwellings per acre” and “8 units per acre” comprised of “detached single-family” houses must be reconciled for the Property given that it is transected by both the aforementioned future land-use categories. This lack of alignment not only amplifies the probable incompatibility of the Application to existing land use of the surrounding area and the environmental and cultural character of the surrounding community, but has clear potential to

²⁴ Hall County | Forward: 2045 *Comprehensive Plan Update* (Hall County Board of Commissioners, 2024), 163–65.

²⁵ Hall County | Forward: 2045 *Comprehensive Plan Update*, 159.

²⁶ Hall County | Forward: 2045 *Comprehensive Plan Update*, 160.

²⁷ Hall County | Forward: 2045 *Comprehensive Plan Update*, 166.

²⁸ Hall County | Forward: 2045 *Comprehensive Plan Update*, 163.

²⁹ Hall County | Forward: 2045 *Comprehensive Plan Update*, 163; Hall County Planning Commission Staff Report, 3.

adversely affect the morals and welfare of the residents of this community, whether now, in the future, or both.³⁰ The discrepancies and misalignments outlined here do not, and cannot, provide orderly growth.³¹

(5) The proceeding discussion of points (1) through (4) would indicate that the Applicants' allegation that the Ordinances as applied to the Property "restrict the unfettered use of the Owner's property inflicting serious and significant injury and damage to the Applicant and Owner which results in relatively little gain or benefit to the public" are not likely to prove defensible positions for Mr. Robinson or his clients. The language of "restrict the unfettered use of the Owner's property" and "inflicting serious and significant injury and damage...which results in relatively little gain or benefit to the public" is pulled directly from *Barrett et al. v. Hamby*. If the Application is evaluated under the six-factor balancing test of *Guhl et al. v. Holcomb Bridge Road Corporation et al.*, however, we may summarize the segments of the discussion of points (1) through (4) as follows:

- i. Existing uses and zoning of nearby property: The Property is surrounded by predominantly low-density residential and agricultural uses compatible with and permitted by AR-1.
- ii. Extent to which the Property's value is diminished: While denial of the Application may affect the potential for higher profitability of the Applicants, the current zoning classification far from destroys or inflicts detriment on the Property's marketability and its value, nor does it render the Property theoretically or practically unusable.
- iii. Extent to which alleged diminution of the Property's value promotes public welfare: The alleged diminution in market value is justified by the public's interest in preserving and protecting its health, safety, morality, and welfare. The latter two – morals and welfare – would be especially adversely affected by the Board's approval of the Application.
- iv. Relative public gain vs. hardship of the Applicants: Weighing the claimed hardship of the Applicants against the current real and potential future benefit to the public can be demonstrated sufficiently to outweigh the individual detriment to BCBTR, LLC and CBD Investments, LLC. Likewise, said weighing sufficiently renders the Application "fairly debatable."
- v. Suitability for zoned purposes: The Property undeniably remains suitable for permitted uses under AR-1, likely including such uses as must satisfy additional Special Use and Conditional Use Permit requirements.
- vi. Length of time the Property has remained vacant as zoned: Any period of non-development of the Property can be reasonably attributable to market conditions, for example, or the mis-management by prior owners of the Property, rather than zoning restrictions. Surrounding area development has remained consistent with AR-1. The development of this area over the last decade in accord with AR-1, as well as current, ongoing residential developmental, recreational, and economic activity along Whitehall Rd., Simpson Rd., Greenway Rd., and Cagle Mill Rd in accord with AR-1 – all exemplify this. Substantial evidence for this claim can be

³⁰ *Barrett et al. v. Hamby*; *Guhl et al. v. Holcomb Bridge Road Corporation et al.*

³¹ *Guhl et al. v. Holcomb Bridge Road Corporation et al.*

obtained, for instance, from time-lapse satellite imagery of the Property and surrounding area from 1984 to 2022.³²

(6) The Applicants' claimed "relatively little public gain or benefit to the public" resultant from the likewise alleged "serious and significant injury and damage to the Applicant and the Property owner" are both likely to be found immaterial when considered in light of legal precedent and the facts of the matter.

III.

Currently, there are at least two formal complaints concerning Mr. Chris Braswell's probable violation of three (3) codes contained within Chapter 2.110 of Hall County's Code of Ethics, including his August 4, 2025 vote to approve the pending application for rezoning of the Property. Had Mr. Braswell submitted a "Conflict of Interest Disclosure" and recused himself from consideration, discussion, and voting on the Application, it is questionable whether it would have been approved by the Planning Commission for consideration by the Board.

Additionally, there is an outstanding potential for violation of one or more codes contained within Chapter 2.110 of Hall County's Code of Ethics should Board Commissioner Jeff Stowe (i) continue in employment as an agent for The Norton Agency and (ii) fail to submit a formal Hall County Conflict of Interest Disclosure prior to, and subsequently recuse himself from, a vote on the Application by the Board at its scheduled September 11, 2025 meeting. If Mr. Stowe has demonstrably participated in discussion and consideration of the Application prior to the scheduled vote – as, for example, during the work session scheduled for September 8, 2025 – this activity would already be of questionable ethical merit under the Chapter 2.110.

I appreciate your consideration of this letter and encourage the County's denial of the Application.

Sincerely,

Robert A. Parks
r.a.parks@protonmail.com

CC: Justin Lawhon (via email and certified mail)
Beth Garmon (via email)
Zach Propes (via email)

³² Google Earth Engine, "Google Earth Timelapse," Google Earth Engine, 2025, <https://earthengine.google.com/timelapse/>.

